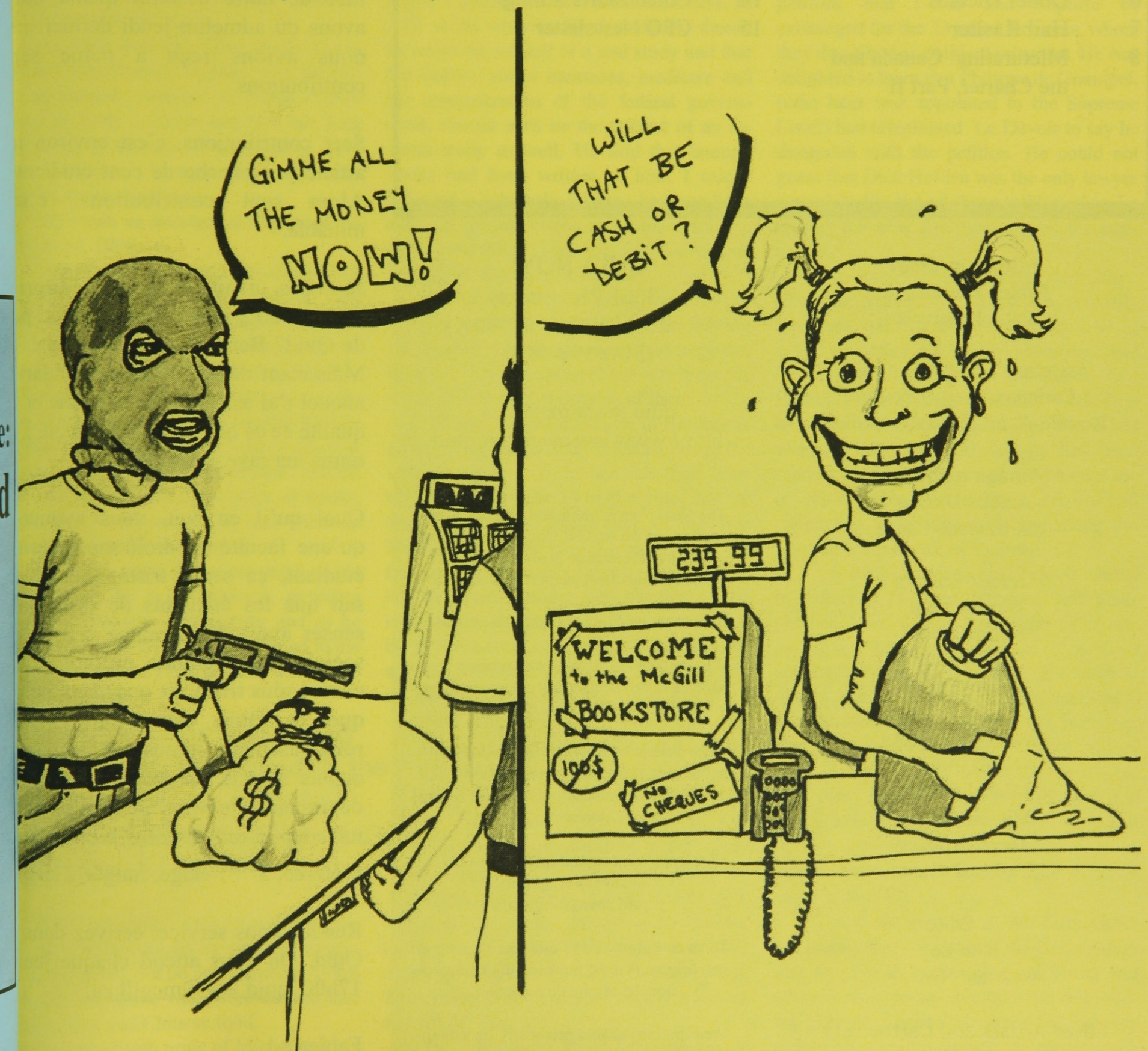


Quid Novi

McGill University, Faculty of Law
Volume 24, no. 2 - September 30, 2003



At least the guy on the left tells you to your face that you're being robbed...

Dennis
2003

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Toute contribution doit indiquer l'auteur et son origine et n'est publiée qu'à la discrétion du comité de rédaction.

Contributions should preferably be submitted as a .doc attachment. All anonymous submissions will be rejected.

Editor's Note...

La semaine dernière, nos pires cauchemars se sont réalisés. Vous connaissez l'angoisse de la page blanche? Eh ben imaginez cela multiplié par 20 pages. Ça donne une idée de notre désarroi quand nous avons dû admettre jeudi dernier que nous avions reçu à peine sept contributions.

Sept contributions, c'est environ un article par tranche de cent étudiants. Alors sept contributions, c'est minable.

Je vous avait écrit un éditorial furieux, du genre « Vous voulez plus de Quid? Ben vous en aurez pas! Mais étant donné l'élan de solidarité auquel j'ai assisté cette semaine et la qualité de ce que nous avons reçu, j'ai remis ma rage à plus tard.

Quoi qu'il en soit, vous avouez qu'une faculté de droit sans journal étudiant, ça serait triste. Quand on sait que les étudiants de droit sont censés avoir une certaine sensibilité sociale, une certaine culture, c'est encore plus triste. Et quand on pense que le Quid est publié quasiment religieusement toutes les semaines depuis 24 ans, ça devient carrément déprimant. (Je vous jure: allez jeter un coup d'œil à votre bibliothèque préférée, 3^{ème} étage, rangée 21B).

Rendez-vous service: écrivez dans le Quid. On vous attend chaque jeudi à 17h00, quid.law@mcgill.ca.

Fabien
& Patrick

A Last Lunch with Trudeau

by Prof. William Tetley (published in the Toronto Star, Friday, September 28, 2001)

Pierre Elliott Trudeau died on September 28, last year, just before the thirtieth anniversary of the October Crisis, 1970, which was one of the important events of Trudeau's years as Prime Minister of Canada.

As I am writing a book on the Crisis and as I have known Trudeau since he first ran as Liberal candidate in Mount Royal riding in 1965, I telephoned him one year before his death and we arranged to have lunch together. I brought along my diary written during the Crisis.

Herewith an account of that lunch on August 29, 1999.

Went to pick him up at his office at the law firm of Heenan Blaikie, on the 26th floor of 1250 René Lévesque. He was wearing a red flannel shirt, no tie and looking thin, but with flashes of fun and fire. Had a corner office which juts out, as he said, like the nose of a large aircraft. Said he felt like the pilot. Beautiful view south over the port and on to the United States. Behind him and on his desk were piles of books, which had been sent to him and which he was trying to read and reply to.

Said that since the recent death of his son Michel, he was reclusive, avoiding crowds and public appearances and as he liked Chinese food, he was glad to go to the Chinese restaurant I had chosen, which was quiet and close-by.

He made it clear that it was Bourassa who had called in the Army and one day later had requested the imposition of the War Measures Act.

While we walked slowly to the restaurant, he was recognized by virtually everyone in the street, but no one intruded. At the restaurant we were well received and had Chinese beer and Chinese food.

He talked with pride of Michel and his interest in the environment and even in avalanches. He was upset with the chopping down of forests in Canada and was pleased

with Anderson, the new federal Minister of the Environment.

I outlined my October Crisis project and that I had already written about 58 pages. I added that his role in the Crisis, as well as his work on foreign affairs, should be made the subject of a real study and that the charter, social measures, medicare and his reorganization of the federal government, should each be the subject of an in-depth study as well. He said that enough books had been written of him. I said I believed a scholarly critique had not been done on his legislation and administration, nor anything genuine on Lévesque, Marchand, Pelletier or Ryan.

Passages of the diary, seemed to intrigue him. He said "It is eerie, hearing you read it." Like everyone he had forgotten things of 29 years before, but added details to the events once reminded of them.

He had forgotten that we in Bourassa's government had passed Medicare, ended the specialist doctors' strike and sent them back to work, in the same 24 hour period, that we had requested the application of the War Measures Act. He said Medicare was the first law he had brought down as PM; it was his first promise of the 1968 election and he had won the election on it. He remarked that by 1970 a number of provinces had already adopted Medicare and that Quebec was late in doing so. He knew the dates exactly. I read him my own comments on Medicare. (Unfortunately, I did not ask him about the present dismantling of Medicare. That's for next time.)

He made it clear that it was Bourassa who had called in the Army and one day later had requested the imposition of the War Measures Act.

When we had talked for about 15 minutes on the phone two weeks earlier, when fixing a date for lunch, he had said the same thing. This is, apparently, very important to him as a small "I" liberal.

He referred to René Lévesque as at times confused in his ideas, on the role of Quebec in a federal state in respect of the use of the Army and the War Measures Act.

He remembered well that in the middle of the Crisis, Lévesque, Claude Ryan and fourteen other "eminent personalities" had recommended in a public press conference and petition that Cross and Laporte be exchanged for the 23 jailed terrorists, whom they described as political prisoners. He was delighted to learn that Philippe de Grandpré, (who later was appointed to the Supreme Court) had telephoned *Le Devoir* to say he disagreed with the petition. He could not guess that Dick Holden was the only lawyer named in the list of those published in *Le Devoir* the next day, who signed the petition.

I mentioned that during the Crisis, Lévesque had recorded a conversation with Bourassa, without telling Bourassa. I asked if this was often done in his experience and he said no, but when I mentioned that British Prime Minister Harold McMillan had been outraged to learn that Nixon had secretly taped him, he said he had been secretly taped by Nixon and that on one tape of Nixon recently released, Nixon had called him a son-of-a-bitch for taking the Canadian troops out of Vietnam.

I read the passage in the diary where, in referring to Ryan, Trudeau had paraphrased Lord Acton, "Absence of power corrupts, absolute absence, corrupts absolutely." He only smiled. He seemed almost timid about his famous one-liners and put-downs of the past. He did, however, like my comment that he did not suffer fools gladly in the House of Commons. He also liked the note that he had said that much Federal/Provincial trouble was caused by civil servants and that the only recourse was to fire them as he had done in some cases in the CBC.

I read the passage in the diary about my feeling that the cell holding Cross would like to give in and accept our terms and seemed more reasonable than the cell holding Laporte. I asked why I had felt that way at the time, and he replied: "One gets such feelings from here and from there"

I told how Ryan and others (Camille Laurin, PQ leader in the National ►

Assembly) had criticised my article that saying no to the release of terrorists was a precedent and that the checks and balances of Canada's federal/provincial constitution had served us well during the Crisis. Le Devoir had published the article in French, during the Crisis, but the Montreal Star had refused to publish it in English. He wanted to see the article. He laughed that I had written in the diary that the press would never get a minister to go out on a limb again and I had added that they never did.

I told him that John Stuart Mill had said in his book "Utilitarianism", that French Canadians should be assimilated. He was surprised and wanted to see the reference.

We discussed the Victoria Agreement of 1971 and he gave it as his view that the Agreement, which we turned down, was the best deal Quebec could have ever received.

Throughout the lunch, I found him as I always had, never bitter, nor mean or noisy, but very fair, reasonable, quiet and calm. The conversation was all over the place and not strained.

We again discussed his son Michel. He was pleased to hear the kind comments I had heard from friends of mine in Vancouver, who had known Michel. He agreed that the press had acted very properly and sensibly at the funeral. He again thanked me for my letter of sympathy, which I had written very carefully after Michel's death.

As we walked back from the restaurant, he did not seem to want to be seen as being protected by me. He particularly opened doors and let me go out first. He looked frail, but still had great strength in his step, although not quite a stride. He said he walked back and forth, between his home

and the office. There were 102 steps up stairs at Avenue du Musée. He climbed them all, without a stop. At the restaurant, he read the menu without glasses.

As we said goodbye, he thanked me for the long lunch and discussion and made a point of crossing René Lévesque boulevard alone, almost at a trot.

Next morning in the Gazette, he was shown at the Film Festival the night before, looking thin, but otherwise his usual self. The Film Festival was reported to be his first public appearance since Michel's death. Perhaps the lunch gave him a lift? ■

William Tetley is a McGill law professor and was Minister of Financial Institutions in Bourassa's Cabinet from 1970-1976.

Right is Mike

by Michael Hazan (Law II)

Have you ever pressed the back button on the Internet and seen a blank white screen? Have you ever been annoyed by seeing a list of courses taken in years past, when all you want to look at are your present classes? Have you ever tried a link and never been able to view the document you wanted? If you answered any of these questions affirmatively, then you know what I am talking about, good ol' WebCT.

According to the McGill Website, WebCT, which stands for Web Course Tools (for those who aren't Renegade RoN Narine), is supposed to help professors with content management, communication and administration. I think WebCT was designed just to aggravate the typical student while those students who don't attend class, professors who like to pile on extra reading and the McGill administration are laughing all the way to the bank. When asked about what she thought about WebCT, former CRO and current second-year law student Sarah Huggins replied "don't talk to me about it, it's dreck!."

Starting with those corporate fatcats (to borrow a phrase from my contemporary Greg Sheahan) at McGill, I think WebCT was implemented because administrators were

sick and tired of hearing about paper cuts from their support staff. So, they decided instead of spending countless hours photocopying and actually helping the students with a minute task, we can save money on manpower and paper by transferring the costs onto the student. Now, students have to spend their time and money on the Web and on paper printing documents, they will look at a total of 1.5 times.

Many can argue that WebCT is a convenient method to retrieve documents on your own time and access is available 24 hours a day. Furthermore, it is environmentally friendly. However, considering that our exams are open-book, it is often a time consuming task to print pages and pages of paper that you may or may not need for the final. What makes WebCT even more frustrating is the fact that you continuously have to press a multitude of buttons in order to get the actual document you are looking for. If WebCT is going to function to its fullest potential, all the kinks need to be worked out of the system including no more blank screens, broken links and eliminating courses you just want to forget about. ■

Obiter Dicta

by Jason MacLean (Law I)

Not unlike Bill Murray in his late role as Bob Harris, I confess to occasionally feeling a little "Lost in Translation" here at McGill Law. There is of course the sport of toggling between English and French, but that's the least of it. I am willing to bet that my Francophone and Allophone colleagues will agree - McGill's "other languages" that ail us most.

Let me begin with what I'll call McGill Law's third language: information technology. Relax, I am not going to take another shot at all you lappoppers and incessant, furious metronomic din of your efforts to produce verbatim archival recordings of each and every lecture - just because I like to write my columns in cuneiform on rice paper doesn't make me some kind of Luddite freak beyond the technological pale. I love all of you, really. But still, webct, e-mail (hotmail, McGill mail), group-mail (sometimes public, sometimes private, hmmm), discussion boards, on-line calendars, assignments, notices (oh so many notices), government web sites and other recommended online reading, and, not least, to be or not to be...wireless. It's getting, like, you know, makes me think that in our offers of assistance the administration should have sent not the English and French versions of

another tearjerker by Justice L'Heureux-Dubé but a HTML primer. No, I'm not bitter (though I do kind of miss DOS). On the contrary, I quite enjoy contemplating the declaratory theory of the common law" while my esteemed professors wrestle with the formidable likes of the "projector operating instructions." Good times.

If there are no riotous objections, I'll pass quickly over McGill Law's fourth language, bureaucratese, but if someone would kindly explain just what a "basket" is and what I am supposed to put in it, I would greatly appreciate it. Then again, maybe not. Here I suspect ignorance may really be bliss.

McGill Law's fifth language may be the closest to all our hearts and minds. I am referring, of course, to the language of grades. Doubtless you have already heard the middling mantra of McGill Law, "pay your fees and get your Bs." I know I am not the only one deeply discomfited by this handsome dictum, but I will not dwell on this particular aspect of grades discourse any longer than it takes to offer my own admittedly corny corrective, namely, "work everyday and get your As." (Clearly, I must dispense henceforth with the habit of thinking heavily before writing.)

No, my present analysis of gradespeak has this week more of a psychoanalytic bent. When I hear upper-year students (no matter how beautiful and bright) say that grades do not matter and that we are all the same, I hear the faint resonance of repression. When I hear administration representatives say the same thing, viz., that grades are not decisive when it comes to landing preferred jobs, I don't (want to) believe it. And when I hear apocryphal stories of "that guy" who, "remember?" "a while ago" had, like,

"straight-A's" - evidently he did not pay his fees - but did not get, like, "any offers," off sounds my five-alarm B.S. detector. Intrigued and inflamed, I went in search of this fallen man, this law school Sisyphus, and I found out to my surprise that the story is actually true - he never did pay his fees. Following his shameful exodus from McGill Law, he wandered the Sinai desert for many a decade with only The Wrongs of Tort to read before resettling in Montréal, where he is now gainfully employed as a school locker designer. When I asked him for comment, he said, first, that "Wachtell Lipton Rosen and Katz can kiss my sun-burned ass," and second, to the

I am not going to take yet another shot at all you laptopers and the incessant, furious metronomic din of your efforts to produce verbatim archival records of each and every lecture.

new occupants of McGill Law's anorexic lockers, he asked, rhetorically, "how do you like me now?" There is, I suspect, an important lesson in all this. Sadly I am no longer lucid enough to figure out what it is now that I have paid my fees.

Neither do I believe that McGill, unlike some "other schools," is just not a competitive place. True, it's not like The Paper Chase. But which school is? Don't tell me you actually believe that law school myth which says at Harvard, or was it Yale, or perhaps U of T, that some students would actually race to the library to tear required pages out of important books? And which "important books" would those be, exactly? You think Harvard professors don't make their

students buy their little [sic.] casebooks, too? You think Harvard can't afford to just order new books with new pages ad infinitum? You think Harvard students read books? But I digress. My point regarding this dialect of the language of grades is that it constitutes wishful thinking. Folks compete here, to be sure, but this is still Canada, and competition is a touchy, vulgar subject here. We compete, yes, but we don't consider it polite to admit it.

Do not misunderstand; I am not advocating the abolition of competition. I quite like competition, properly understood. Rather, I want to share with you the philosophy of academic competition that I find most felicitous. To begin with, though we may think we compete with one another, we do not - at least not directly. When we sit our first examinations in December, we will each sit and face the demons alone. We will each decide as we sit in steely, stony silence whether or not to read the questions, whether or not to answer them, and whether or not to bother studying for the next exam.

None of us, however, will devote any of that dear time to physically obstructing others as they attempt to realize their destinies (though that would be interesting, a kind of Survivor examination challenge wherein the winner gets to vote a professor off the mountain). At best (or worst, as it may be), we compete with each other but indirectly. Really, at bottom, we truly compete with only ourselves. We try to stretch both our imagination and our ability to instantiate that which we imagine, be it on paper during an exam or on a squash court or in that august arena we call, wait for it, "life" (hey, how the hell did Dr. Phil get access to my reed paper?). ■

Exploring Our Financial Options or Just Kicking Up Some Dust

by Noah Billick (MBA/Law II)

Note: Apologies to all Law Is and to everyone who has tired of this topic. I know that I have. Nevertheless, I gave my word, so here is my plan for avoiding privatization...at least for a while.)

Contrary to popular belief, I do not support the privatization of the Faculty of Law. It would surely lead to severe financial hardship for many gifted, hard working and well-deserving (if not well-off) law students, to the extent that many would

not be able to attend McGill Law. This would be an unmitigated shame. I am not trying to be ironic, sarcastic or affecting. It's just what I believe.

Yet, an organization cannot maintain a deficit for very long. The MacDonald ►

Report (formally known as the Final Report of the Ad Hoc Committee on Processes for Professorial Recruitment) identified a \$4.5 million deficit in the McGill Law budget - \$4.5 million that would go only toward keeping McGill competitive in terms of basic operational needs, such as paying professors a competitive wage (with wishfully projected increases that would still be 25% lower than U. of Toronto) and keeping library resources current and meaningful. As the current budget is also \$4.5 million, plugging the projected deficit would require a 100% increase in the current annual budget.

So I worry. Currently, annual gifts to the Faculty total about \$325,000. Our new Dean of Law, Nicholas Kasirer, was reported in the September 11, 2003 edition of the McGill Reporter to support convincing Québec City to commit to thinking in terms of "investment, not expenditure" when it comes to McGill Law. I applaud Dean Kasirer for his courage and for pursuing what I think is the best possible approach to Québec City - change the way they think about us. However, I am weary of the provincial government. Professor MacDonald was forthright in his report, writing, "[T]he chances that the provincial government will find the additional money to sustain its Universities at a reasonable level are slim to nil." And although the social contract will certainly help, in even the most optimistic projections it would be insufficient to bridge the funding gap.

Our options are as follows:

1. Privatise, à la U. of T. Charge \$21,000 for tuition and become an elitist

institution that prices many deserving students out of the market.

2. Find a large private donor, preferably a family foundation (because it's easier to be the Bill and Melinda Gates School of Law than the Enron School of Law).

3. Lobby the provincial government to invest in our institution, but be at the mercy of each subsequent provincial budget.

4. Allow the school to deteriorate, watch as our best professors leave, and become irrelevant.

In my opinion, the second and third options are preferable to the first and fourth.

Contrary to popular belief, I do not support the privatization of the Faculty of Law.

However, these initiatives take time - maybe a very long time. The more time we have, the better our chances for success in Québec City or for us to find a few \$50 million dollar donors (OK, it's optimistic, but why not?) So, I propose a plan to buy us time.

The basic concept is this: borrow money on the public markets (or through a lending company) through a zero-coupon debenture (a type of unsecured bond). Invest the principal at an expected return of 5%. Use the interest generated to meet the budgetary requirements (zero-coupon debt requires no interest payments. That means we don't have to pay until the entire amount is due - cool, eh?). Make the term of the debenture fifteen years, more than enough time to execute a large-

scale marketing and public relations campaign and pressure Québec City to capitulate and increase our funding. Simultaneously position McGill Law for that big act of philanthropy. In the meantime, aggressively ramp up the social contract initiative - money would be invested for the eventual repayment. Depending on how much is borrowed, additional funds might be needed to pay off the debt; in that case renaming the faculty has to be considered. If renaming is too unpalatable, a smaller loan would provide a cushion for the faculty to move closer to its operational goals without the risk of the embarrassment of sharing a name with some morally questionable private entity.

The concept of a Canadian university borrowing money is not revolutionary. In fact, the Toronto, U.B.C., York, Concordia, McMaster and even McGill have raised money through the issuance of debentures. As a practical point, the University would probably have to agree to issue the debt on behalf of the faculty, as the faculty on its own typically has no authority to do so.

It is time for stakeholders in McGill Law to recognize that without a feasible solution to the funding crisis, McGill will become a prohibitively expensive place to study law. That, or it could no longer be a first-rate institution. Let us all rally around Dean Kasirer and wish him Godspeed in Québec City. ■

Thanks to Gino Caluori for developing the concept behind this article, and for putting together a model that proved that it works. For more information on the model, including the mathematical assumptions behind it, write to gino.caluori@mail.mcgill.ca.

Obiter Dicta II

by Jason MacLean (Law I)

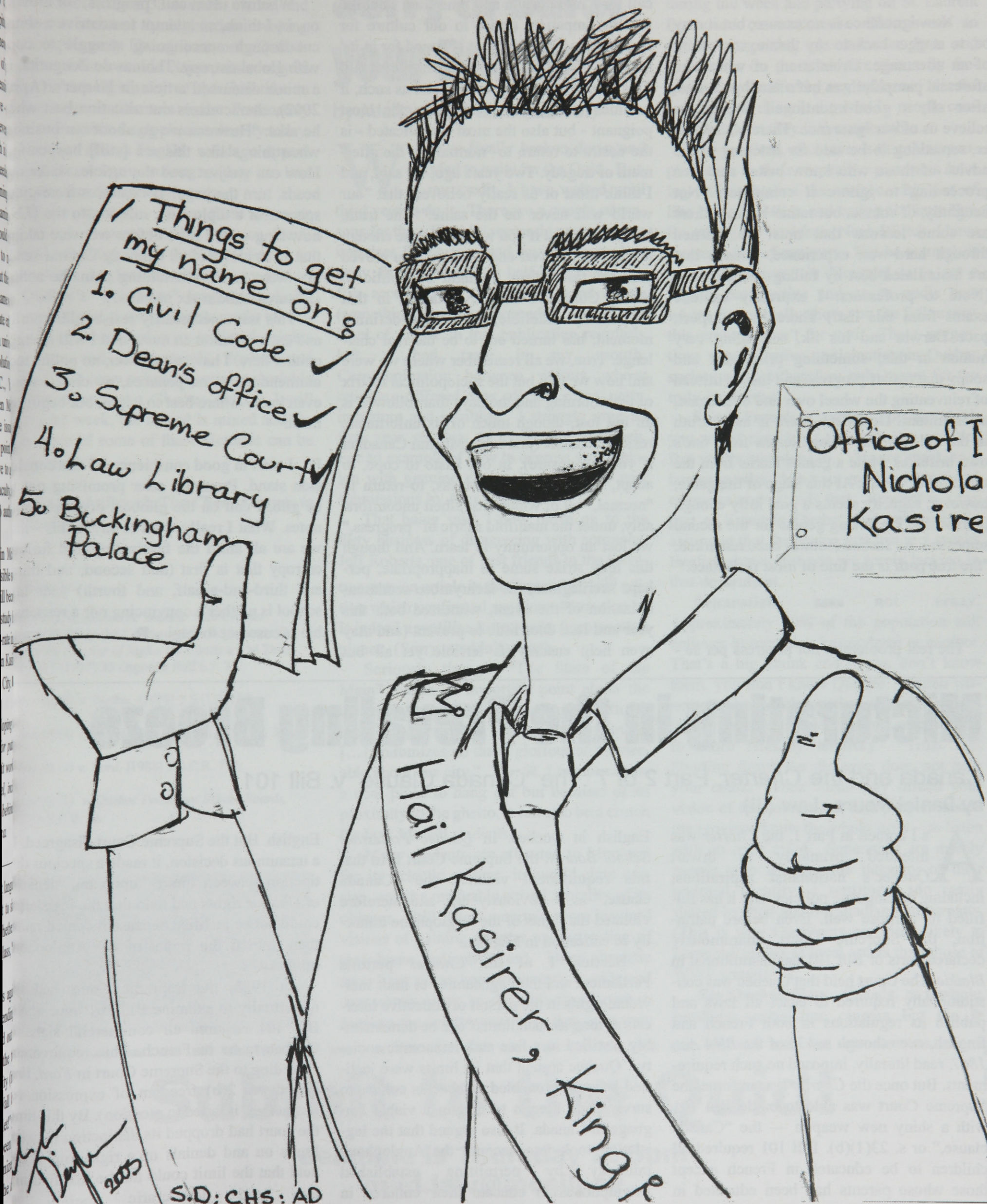
With two weeks of law school under my belt, it may be a little premature to discourse (out loud) on the subject of progress. Which is decidedly not to declare that I have made any. Au contraire. But that is my point - the absence of progress, or at the very least the slackening of its pace, is sometimes a very salutary thing.

Consider the advice we first-yearlings received in the form of a pamphlet bearing

the title "What I Wish I knew in First Year Law School" issued by the students of a law firm that shall forever remain nameless (nameless not because I want affirm obiter dicta as a space bereft of insidious corporate depredation, but nameless because unsaid firm turned down my offer of reasonably priced obiter dicta advertising space). I turn your attention to the first of five things the pamphlet declaims we should not do at law school: Don't believe the hype. Notwithstanding the eminent good sense of this advice, the hype already abounds and, worse still, the hype has many earnest subscribers. The faculty is abuzz with talk of study groups, summaries, switching sections,

which books to buy and which to let languish on the shelves, what to read, what to skip, whether or not to speak in class, whether to hate those who do speak in class, "the curve", ect.

The pamphlet also cautions us against the evils of gossip (too late), of pretending to know everything (have you checked out Democracy Wall lately?), and of the twin baddies condescension and pomposity (have you checked out the Democracy Wall lately?). "But I haven't read this pamphlet!" cry out in desperation at having been left behind. Well you should have, it's itemized required reading somewhere inside the dreary recesses of our Foundations syllabus.



(obiter dicta II, cont'd)

Now ignorance is no excuse, but it may be, to stagger back to my theme, something of an advantage. Orientation, of which the aforesaid pamphlet was but a small part, was, after all, a good-intentioned attempt to relieve us of our ignorance. There is, however, something to be said for listening to the advice of those who know better and then proceeding to ignore it completely. Not haughtily, of course, but rather because there are some lessons that must be learned through hard-won experience, lessons that are assimilated best by failing at them first. (Note to professors: I expressly exclude exams from this list!) There is, I suspect, pace Darwin and his ilk, something very human in this, something primordial and soupy that resists progress and insists instead of reinventing the wheel over and over again, ad infinitum. Doubtless, there is much truth in the old saw that a sage learns from one's own mistakes while a genius learns from the mistakes of others. At this stage of the game, however, sagacity seems a goal lofty enough (personally, I'm saving genius for the second semester). As Justice Holmes once remarked, "the true path is the line of most resistance."

The real problem is not progress per se -

which is rarefied enough without having to call for a moratorium any time soon - but the fervent, impatient desire in our culture for "progress". Although what is hoped for in its name is sometimes not progressive at all. This compulsion is pervasive, and as such, it assumes many forms. Of these, the most poignant - but also the most complicated - is the desire to return to "normal" in the aftermath of tragedy. Two years ago, we said, and I think most of us really believed, that "our world will never be the same." The truth, however, is that if you were fortunate enough not to lose a loved one that day, you moved on, and faster than it might be politic to admit. Collective memory, staying in that supposedly indelible, generation-defining moment, has turned out to be the real challenge. True, we all remember where we were and how we felt, but the sociopolitical matrix of that morning and the days that followed is all but lost, though much of its unfortunate residue remains (just ask a Muslim Canadian if you are unsure). In our haste to cope, to adapt, to get back to business, to return to "normal," all of which fits, albeit uncomfortably, under the manifold rubric of "progress," we lost an opportunity to learn. And though this may strike some as inappropriate, perhaps sacrilegious, the lachrymose sentimentalization of the event, witnessed both this year and last, does little to prevent (and may even help ensure) its terrible yet all but

inevitable recurrence.

What we often call "progress," or movement, on, is, I think, an attempt to contrive a shortcut through our ongoing struggle to cope with global entropy. Thomas de Zengotita, in a much discussed article in Harper's (April 2002), characterizes our situation best when he asks: "How can we go about our business when things like this are [still] happening?" How can we just read the article, shake our heads, turn the page? If creatures from outer space sent a diplomatic mission to the U.S., how long would it be before we were taking that in stride? Before Comedy Central series were more entertaining than the actual events? About six months?"

This issue necessarily resists glib homilies and encapsulation en nuce, and I will attempt neither here. I have no answer, no policy recommendations, no panacea, no clue. I do not even know where best to begin, but begin we must.

PS. I can't in good conscience let this conclusion stand. Promptly after promising not to be glib, I end on the glibbest of all possible notes. What I really want to say is this - that we are all amid the fascinating and furious entropy that is first (and second, and third, and third-and-a-half, and fourth) year last school is neither a convincing nor a responsible excuse not to begin. ■

Micturating in the Prevailing Breeze

Canada and the *Charter*, Part 2 of 7 :The "Canada Clause" v. Bill 101

by Daniel Moure, Law (III)

As I argued in Part 1, the *Charter* was intended primarily to thwart Quebec's nationalist aspirations, including its language policies, and it has fulfilled its purpose well. Even before patriation, the Supreme Court unanimously declared parts of Bill 101 unconstitutional in *Blaikie*. The Court held that Quebec was constitutionally required to enact all laws and publish its regulations in both French and English, even though s. 133 of the *BNA Act, 1867*, read literally, imposed no such requirements. But once the *Charter* was in force, the Supreme Court was able to battle Bill 101 with a shiny new weapon — the "Canada clause," or s. 23(1)(b). Bill 101 required all children to be educated in French except those whose parents had been educated in

English in Quebec. In *Quebec Protestant School Boards*, the Supreme Court held that this requirement violated the "Canada clause," as it obviously did, and therefore violated the rights of the Anglophone minority to education in English.

Section 1 of the *Charter* permits Parliament and the Legislatures to limit individual rights in the pursuit of collective interests as long as such limits "can be demonstrably justified in a free and democratic society." Quebec argued that its limits were justified because it enabled Quebecois culture to survive and French to remain a viable language in Canada. It also argued that the legislation took into account the Anglophone minority by permitting established Anglophones to educate their children in

English. But the Supreme Court disagreed. In a unanimous decision, it made a specious distinction between "limits" upon and "denial" of *Charter* rights and held that the legislation could not be justified because it denied rather than limited the rights of the Anglophone minority.

In 1988, the Supreme Court had the opportunity to examine Bill 101 once again. Bill 101 required all commercial signs in Quebec to be in French. This requirement, according to the Supreme Court in *Ford*, limited the s. 2(b) freedom of expression of businesses, it failed to mention). By this time the court had dropped its distinction between limits on and denials of a right, but it still held that the limit could not be justified in a free and democratic society.

However, unlike s. 23, freedom of expression is subject to the s. 33 override clause, and Quebec reintroduced the legislation invoking s. 33. Despite early liberal fears, only Quebec has invoked the override clause, since only in Quebec is the legitimacy of the Constitution and the Supreme Court in doubt. Fortunately for the vulnerable Anglophone minority today, Quebec now allows English words to appear on commercial signs, as long as they are less dominant than the French words.

Charter apologists ignore these cases or tend to put a more positive spin on them. Bushell and Hogg claim the *Charter* came to the rescue of the Anglophone minority by declaring Quebec's "draconian" language policies unconstitutional. And apologists prefer to look at the *Charter*'s record in protecting the rights of women and homosexuals. Women and homosexuals have achieved some undeniable victories through the *Charter*. But, as I will argue next week, the record is mixed and the importance of some of these victories can be exaggerated. ■

Next week: Part 3, The *Charter* comes to the Rescue....

Bibliography:

Hogg, Peter, & Allison A. Bushell "The *Charter* Dialogue Between the Courts and the Legislature (Or Perhaps the *Charter* of Rights Isn't Such a Bad Thing After All)" (1997) 35 Osgoode Hall L.J. 75.

Quebec (A.G.) v. Blaikie, [1979] 2 S.C.R. 106.

Quebec (A.G.) v. Blaikie (No. 2), [1981] 1 S.C.R. 312.

Quebec (A.G.) v. Ford, [1988] 2 S.C.R. 712.

Quebec (A.G.) v. Quebec Protestant School Boards, [1984] 2 S.C.R. 66.

Sorry to Burst your Bubble

by Michael Rowland (Law III)

Well, I've finally broken down and decided to write for the Quid. But, to my credit, I have waited until third year to do it. There are a couple of reasons for this. First, by repressing my creative impulses for so long and saving the student body from yet another half-baked opinion, I've accumulated a fair bit of good karma (something every lawyer needs). Second, the level of debate in this publication regularly left a bad taste in my mouth. Communication between writers whose opinions differed was all too often petty, immature and insulting. I strongly urge all first year students to avoid this approach. For an example of how to express your opinion with genuine class, please refer to past submissions by Alex Law.

That being said, I now move on to the dirty business of disagreeing with someone. Jeff Roberts, one of best friends in the faculty, wrote an article in the September 16th edition which confirmed my worst fears: that he is indeed a reptilian kitten-eater from another planet. (Sorry, couldn't resist).

Seriously though, "The State of the Main" makes an important point about the dangers of gentrification, but begins with the misleading claim that "St. Laurent Boulevard [...] epitomizes all that's glorious and venerable about our city." Yes, St. Laurent can be a cool place to hang out but because of its proximity to the ghetto, it can also be a crutch for lazy McGill students.

Many students are attracted to Montreal for its eclectic culture, its world-class cuisine, and the malleable sexual morality of its citizens. Still others entertain more inspired visions of gaining a better understanding of their home and native land. These altruistic sorts have never been to French Canada and desperately want to do their small part in keeping the country together. But, once they

arrive, they settle into the pattern of school during the week and partying on St. Laurent Boulevard on weekends. This is not an entirely surprising phenomenon; bars and restaurants on the Main are primarily frequented and staffed by anglophones. It is the most natural thing in the world - people congregate where they feel comfortable.

The problem, of course, is that these people return to their respective provinces having only scratched the surface. It's sort of like being in Milan and eating at Pizza Hut. So, taking the lead from Noah Billick, I have created a list of my own. But be warned: If your sole purpose in Montreal is to get a degree, eat poutine and go to nudie bars where they actually show you the full monty, this probably isn't for you. These suggestions require active participation in Quebec society and are therefore only meant for the truly inquisitive.

Speak French in public. You may think you sound stupid but the truth is - you do. But you're supposed to. You are speaking a language other than your mother tongue and everyone understands that. Respect is a big part of living in Quebec and automatically assuming that the person you just met speaks English shows that you are sorely lacking in that department.

Separatists are not crazy. Approximately 40% of the population still believes in secession in one form or another. That's a big chunk and if you don't know them, you don't know Quebec. I often witness the knee-jerk reaction at social gatherings - the quick subject change or the move to more friendly territory. Trust me. Shutting down the dialogue does not help your cause. Their ideas may offend your vision of the country but few people outside the province know the whole story - so listen with an open mind. Separatists are merely people who fear for the integrity of their national identity, a sentiment too rarely shared by their anglo-Canadian counterparts. (This is why Quebecers are more likely to know the names of local artists than those of WWF wrestlers.)

See Quebec films. Canada, as a whole, produces some fine cinema but the ►

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difference with Quebec films is that people actually watch them. We therefore produce more seasoned filmmakers whose work is accessible to both the culture vulture and the Joe six-pack alike. (Don't resent the characterisation - I tend to be a Joe six-pack myself). In short, the cinema is like the province - sophisticated but not pretentious.

Avoid St. Laurent like a bad case of herpes. (I've been told that in avoiding one, you may inadvertently avoid the other). That is not to say you will not spend time on the Main. If you party with your fellow students, going out on St. Laurent is inevitable and that's not a bad thing. Making a concerted effort to avoid it will only ensure that it doesn't become the center of your existence. Remember, it's only a slice of a very big pie.

Step outside of your bubble. This is the all-important category that applies to all facets of daily life. If you spend all of your time

among anglos (a minority group that comprises a mere 9% of Quebec population), you may be getting a skewed picture of the province. Like many big cities, Montreal is riddled with these ethnic and linguistic enclaves where people don't have to be challenged. Actually getting to know another culture requires that you shed your security blanket. So, venture forth into the unknown. Don't be afraid to lose yourself. If you find yourself in a situation where you feel out of place, you're probably learning something.

But, as previously mentioned, this list is not for everyone. Montreal citizenship takes work. I can't tell you what to do or where to go because that would defeat the purpose of the exercise. If you plan to be a tourist, then St. Laurent will suffice. Just remember, St. Laurent is the movie and Montreal is the novel. My advice: the movie is always better. ■

Poems

by Jeff Derman (Law I)

The Free Lunch

Blue ties and shirts
you'd think it was a holocaust
or maybe the Democratic convention
in Washington, District of Columbia

They pay for the catering
Alcohol, free alcohol
planting in your mind

the death of Iranian children

through the principles of justice
such as patrimony, conversion, and the balance sheet
of your individual soul

I don't know,
if we exchanged
this red book for chairman Mao's,
Or if we sang hymns
If it would make a difference.
They paid for that real estate in your mind
and after
all you are brilliant
after all
this is a free lunch.

I wouldn't do it.

I would grow weeds and flowers
I would see America fester like a tropical forest
The winds restore the wasted soil
The timber return to their sacred space
I would install Indians on the ruins of New York
Wandering to be enforced by decree
And if I found a path winding down some orphaned Louisiana river
Down from Hochelaga to the Bay of Pigs
Then I would know we'd grown up.
And we could shed our military fatigues.

Pierre, Fidel and Leonard

When I go touring Havana
I will turn my thoughts toward Québec
Reflect on the red, the blue and shimmering white lily and stars
Divided, brothers, by the home of the brave
The land of the free
I know in Havana there are cigar-less starry nights
Québec sees her only breath in the dead snow skies.
If I could pave this road from Vermont to the Florida keys

I imagine French Girls

I imagine French girls
have the serum for beauty
if I should find myself
drunk or thirsty, lost among billboards,
reading instruction manuals
should the morning wait
and hold out till noon
or scorch me at midnight
finally yellow arrows of sunlight
clearing my eyes of their vision
I will remember them,
toothless though I be,
with the forever style clothing the skin
Dismembered, cured, and naked.

Grace

I have accepted the suburbs
Box stores, overpasses
kit houses, driveways
sports utility vehicles
I accept the disappearance of the farmers' field
The emerging freeways
Drive thru dinners
I accept it all.
I kiss it deep.
I breathe my blessing on every stillborn babe.

Unnatural Doubts

by Edmund Coates (Alumnus II)

A man went to his tailor, to pick-up his new suit. The man tried on the suit and saw that one sleeve was too short. The tailor said "don't worry, just pull up your arm a bit on that side". The man followed the advice. Then the man saw that one pant leg was shorter than the other. The tailor said "don't worry, cock your left hip, twist your right leg, and bend your right knee a bit". The man followed the advice. Finally, the man saw that the shoulders of the jacket were askew. The tailor said "don't worry, bend your head to the right, then turn it to the left". The man followed the advice. He paid the tailor and left the shop. As he stumbled out on to the sidewalk, a child pointed: "look, look, mommy, a terribly crippled man". The mother answered "hush child ... but what a magnificent tailor!"

Many people hear from their culture or tell themselves that sensitive aspects of themselves were immovably set in their childhood or their genes. This sense of inevitability inhibits self-exploration or the taking of a critical stance. For instance, a number of gay activists rely on this sort of appeal to fatalism (to parody, "We're gay because we were born that way, accommodate it"). This spring some appeared before the House of Commons committee hearings on same-sex marriage. We continue to hear their voices in the debate over this fall's proposed legislation. These activists risk confirming in the ears of some that homosexuality is a genetic disease. Few can doubt their sincerity or good intentions. Yet their position is about as convincing as that of the activists who argue both, that introducing same-sex marriage is "merely" changing a label, and that introducing same-sex marriage will bring a host of benefits to society.

Each of us has certain inborn ranges of potentials in regard to sexuality. But a historical perspective shows vast variation in sexual culture and behaviour. The elaborate edifice of desire we build on some of our potentials, and not others, is hardly written in biological fate. Sex's basis in physiological stimulation is natural, but our sexuality is largely artificial, wholly human. Many gays and lesbians incorporate their sexuality through far more

reflection, and creativity, than the average heterosexual (a probably mythical, or at least impossibly mediocre, beastie). Thus, when a dogmatist claims that gays or lesbians are unnatural, she may, in fact, pay them the compliment of being the height of civilization.

We would, in any case, grant little to someone by conceding that they ARE gay (gay as a matter of eternal being, rather than of day to day progressive enactment). For this hardly settles the question of the manner of their gayness. The label "gay" covers an ocean of practices, meanings, and self-descriptions (just as for homosexuality's dependent twin concept, heterosexuality).

Our sexuality is an intertwined assembly

Each of us has certain inborn ranges of potentials in regard to sexuality. But the elaborate edifice of desire we build on some of our potentials, and not others, is hardly written in biological fate.

of desires. Humans have mute impulses just as much as inch-worms and sun-flowers. But desires are a construction of beliefs set on a foundation of impulses (with which they have a reciprocal relation). These structures of beliefs each tell a story: that the bringing about of certain states (and the avoidance of certain other states) would have a particular quality and particular results. The beliefs also detail how the states might be pursued.

While sexuality involves other phenomena, it revolves around sex (including caresses, kissing, and some other valuable non-genital exchanges). At its best, sex is a deep expressive relation between persons. Who you choose to have relations with, under what circumstances, and how, flows from what meaning the interaction will have for you. Typically, the richer the meaning, the richer the experience. For instance, researchers have long found that gay men who believed more strongly in romance, and were strongly attached to their partner, with whom they were sexually exclusive, reported greater sexual satisfaction (e.g., Peplau at 17). This quality likely flows from the opportunity to weave, in

trusting partnership, a delicate and extended fabric of belief, emotion, and understandings.

Still, the sex relevant to desire includes masturbation (at least that which goes beyond just itching and scratching). Masturbation's solipsistic aspects make it an inferior variety. Still, its central cases do not simply consist in genital stimulation, but rather involve mentally turning over various fantasies, images, or memories (or so I am told). Even if the masturbator is just staring at a photograph or computer screen, he or she is investing the picture with particular meanings.

When we explore, cultivate, and refine the beliefs which give shape to our desires, we exercise choice in relation to our sexuality. But to push away or ignore possibilities for choice is itself a choice. We make a choice when we regard ourselves as the slave of our desires or regard desires as savage beasts best kept on a short leash.

But can our choices have a direct impact, as to which beliefs will structure our sexuality, even at our sexuality's developing fringes?

We will reach the wrong answer if we use a restricted notion of belief. When we think about beliefs, the standard examples which spring to mind have contents like "I was born on 18 January 1974" or "this stone weighs ten kilograms". This type of belief is directed at physical truths (Williams, at 136). In contrast, the beliefs entwined in sexuality are future-oriented convictions. They are about what we are making of ourselves.

The fact, that some people forget they could choose, does not establish that they could not choose, nor establishes that they are not able to choose now. Barbara Winters supplies an analogy: "Evidently many of us, under suitable guidance, can lower our rate of heartbeat directly, as a basic action, in full consciousness (not by indirect means such as thinking of calm spring days, etc.) However, very few of us are aware of having this ability. ... A person might lower his heartbeat through a direct effort of will, although he may *think* that he did so indirectly (say by swallowing a placebo); his belief in this false causal efficacy does not alter the fact that he performed the basic action". (at 255).

Some of the beliefs entwined in our sexual desires are set down so deeply and early that we can only reach them with great difficulty, if at all. But this is no justification for an all-or-nothing argument. A large number of our sexual beliefs are accessible with some reflection.

Harry Frankfurt classically ►

distinguished levels of desires (at 11ff). You can desire "x". At a higher level, you can desire "that you desire x". At a higher level, you can desire "that you desire that you desire x" ... Thus, an addiction researcher may wish to understand what cocaine addiction feels like from the inside. She will want to "want to take cocaine". She wants to entertain the mental state characteristic of the addict. Presumably, she is confident that she will not act on the desire for cocaine. She will seek to entertain it at only a mild, imaginative level. Conversely, an addict may want to take cocaine, but have a higher order desire that she not have this craving.

We can be more fully effective, more fulfilled in our humanity, to the degree that our higher and lower level desires are richly and harmoniously interrelated. Here lies the value of reflection and exploration. Here lies the value of seeing that plasticity, not inevitability, has the largest place in regard to both the direction, and content, of the storylines of beliefs which shape our sexual desires.

A typical pattern of sexual discovery, in adolescence/ early adulthood, is at first to find a sexual practice awkward, perhaps painful, only to progressively see (and to some extent project?) a deeper pleasure in it. For some, this discovery and cultivation cease with early adulthood. One type of sexual story will have rooted itself in the person they have made of themselves. They will carry this story basically unchanged through the rest of their lives. This is a valid choice but not a necessary one.

Dialect learning provides an analogy. Take a native speaker of "Black American English". Had the infant, which was to become that speaker, been born in working-

class Glasgow, she would have spoken the Glaswegian dialect of English. If our Black American met our Glaswegian, they would, at least at first, have great trouble communicating. But people can adopt new dialects, some people more easily and more proficiently than others. People can even pass from framing their world in one language to framing it in another. It happens that an immigrant to Winnipeg from Armenia, say, will not speak Armenian for years. Their Armenian will wither, and English may come to seem to them as their natural language of expression and thought.

Proficient language-learning is in some ways more challenging than its correlative in sexuality. Languages must take in all the world, while sexuality takes in your self and the meanings and interactions which give direction to your desires. On the other hand, sexuality requires the negotiation and preferential cultivation of emotions: a demanding study.

I wonder why people still buy-into the picture of repression and self-denial (both people seeking to "uncover" their "true" self by overcoming repression, and those who praise repression wish for as much of it as possible in as many people as possible).

Repression conjures up a Freudian hydraulic picture of base forces whose energy is sublimated to higher purposes. I suspect self-denial is a confused notion. Do we see an inner entity, say an inner three year old who wants a cookie, and an inner parent who says "no, you'll spoil your supper?" or "just one if you're good"? I would suggest this conception of internal splitting is of little use. We would still need to progressively choose what

kind of inner parent to have (or go with the drift of outside influence in this regard, which would still be a choice). If we choose to do one way rather than another, then we choose ourselves in that action. We would be more accurate call this self-choosing, rather than self-denial. A self is an achievement. Something that we are (as caught by stop-motion photography, as if were) is an amalgam of reflective influences and habits. But the question is where we go from here, what we are making of our selves. This project is not a selective release of some pre-existing nature ("self-realisation") Aristotle-style, but rather some measure of choice as to what that nature will be. The choices are usually small, made by-day, and on the fringes, but over years they have a substantial effect.

Connie Rosati's thesis at Michigan: *Self-Invention and the Good* (still unpublished, I think) made this point in relation to the moral theories which base a person's good on what a person would think, if they were cleaned up (fully informed and rid of bias, prejudice, etc.). The problem with these theories is that the resulting self is still taken as a given. A central issue which calls for reflection is what type of self you should have.

Some people do claim that they are grateful to have left sexuality behind. Classical Cephalus, the elderly, not entirely sympathetic character in Plato's Republic, said that he was grateful to be sexually burnt-out in old age (he also said he was glad that he was so that he could compensate for all the harmful things he had done to people). The degree to which this is a case of sour grapes is a matter of interpretation. Certainly, this would be the natural interpretation of someone who

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said they were glad to have much of the ability to taste food, or the appetite, in old age. They would dismiss cooking and eating as over-rated bother, and say they were happy they could now content themselves with one of the canned slushes from the drug store.

Historical perspective is useful here

currents of thought, stopped up by the advent of modern psychological dissection, suggest alternatives to today's restricted view of sexuality. Our sexuality, our choices, can be seen as one of the central elements of our humanity. Leo Steinberg's draws out one strand, in his classic *The Sexuality of Christ in*

We make a choice when we regard ourselves as the slave of our desires or regard desires as savage beasts best kept on a short leash.

Renaissance Art and in Modern Oblivion. The book shows that "in many hundreds of pious, religious works, from before 1400 to past the mid 16th century, the ostensive unveiling of [Christ] child's sex, or the touching, protecting or presentation of it, is the main intention. And this emphasis recurs in images of the dead Christ, or of the mystical man of sorrows (at 3). Artists depicted naturalistically, these types of human details and gestures, with the intention] not to diminish but, on the contrary, to confirm the mystery of [Christ's] incarnation. Lifelikeness posed no threat, because these artists of the Renaissance regarded the godhead in the person of Jesus as too self-evident to be dimmed by his manhood. ... Rapt in the wonder of God's assumed human nature, Renaissance artists will have produced work whose winning naturalism becomes in retrospect self-defeating. Wherever, in humanizing their Christ, they dared the most, we now see nothing out of the ordinary as though the infant Christ or the adult's corpse were mere pretexts for exhibiting common humanity" (at 6). But we are often restricted by the blinders of our culture and up-bringing into thoughtlessly assuming, as ordinary and inevitable, that is nothing of the sort.

As I see it, the elements of choice in a person's gay erotic identity matter both looking forwards and backwards.

Looking Backwards

When a person discerns the choices that went into the history of his gay erotic identity, this yields him a particular dignity. He can endorse the choices in retrospect: saying that if he could make them again, he would make the same ones. On the other hand, if, in relation to important elements, he finds that he would now make different choices (if he could go back in time), this realisation brings to light a self-dissatisfaction, possibly self-corrected, which he needs to confront honestly.

ly.

Looking Forwards

Our erotic identity is part of our set of dispositions through which we attribute certain meanings to our actions on other people, to our actions done with other people, and to the actions of other people of which we are the object. Our erotic identity leads us to make claims on others, and allows a purchase for claims certain others make on us. Reflection on our deep history of erotic choices is a vital guide in our present and future erotic projects.

For some people, sex is not at all at the centre of their gay erotic identity. For example, some extended relationships have a strong erotic bond, but the relationship has evolved in such a way that there is little or no genitality. The relationship will express mutual concern, admiration, an abiding desire to grow in harmony, but this friendship will still be rooted in an erotic base. This process of growth call on each partner to reflect on the way the choices went which shaped his present erotic enactments. Such insight would be invaluable in weaving, in partnership, an erotic harmony (how could discussion of needs and expectations between partners be complete without this element?).

My approach addresses itself as well to the spectrum of less profound and shorter attachments. But I would even extend my argument to the other extremity of the spectrum, the men who rely on "rent-boys". Why do some men go out of their way to hurt or degrade these young men? Even in this sort of transaction you can show greater or lesser respect towards the human being you hire. It depends on the meaning the interaction has for you. The client ought to reflect on his meaning attributions, on the stories he tells himself. At best, this type of transaction can only involve moderate amounts of dignity for either party, but more respect for human dignity is still better than less.

Identifying as gay is a continuing ethical, aesthetic, and political process. Reflection on past and present choices needs to be a full partner in this process. People may derive some anxious comfort from "coming out" stories they confect for their own and others' consumption, stories driven by the iron hand of biological fate. But this is a thin, false comfort; it can even be a false prison.

Our sexuality flows from a mix of very broad biological potentials, unreflectively imbibed culture, and a varying amount of cre-

ative choice. The fact that we did make choices in the past, does not imply that the choices can be easily or completely revisited. But our sexuality is less a state than a dynamic process, one which points to who we will be in the future. The crucial issues lie less in what we have made of ourselves than in what we will make of ourselves. How much will be drift, or unconsidered outside influence, and how much will be thoroughly our creation? (or even better, a co-creation rooted in a relationship of respect and nurture). Knowledge brings both responsibility and opportunity. ■

Bibliography

Alston, William P. "The Deontological Conception of Epistemic Justification". 2 *Philosophical Perspectives* (1988). 257.

Audi, Robert. "Doxastic Voluntarism and the Ethics of Belief" in *Knowledge, Truth, and Duty: Essays on Epistemic Justification, Responsibility, and Virtue*. ed Matthias Steup. Oxford: Oxford University Press. 2001.

Feldman, Richard. "Voluntary Belief and Epistemic Evaluation". in *Knowledge, Truth, and Duty: Essays on Epistemic Justification, Responsibility, and Virtue*. ed Matthias Steup. Oxford: Oxford University Press. 2001.

Frankfurt, Harry. "Freedom of the Will and the Concept of a Person". in *The Importance of What We Care About*. Cambridge: Cambridge University Press. 1988. 11.

Ginet, Carl. "Deciding to Believe". in *Knowledge, Truth, and Duty: Essays on Epistemic Justification, Responsibility, and Virtue*. ed Matthias Steup. Oxford: Oxford University Press. 2001.

James, William. *The Will to Believe*. Cambridge, Mass.: Harvard University Press. 1979

Newman, John Henry. *An Essay in Aid of a Grammar of Assent*. London: Burns, Oates. 1870.

Peplau, Letitia & Susan D. Cochran. "Value Orientations in the Intimate Relationships of Gay Men" 6 *Journal of Homosexuality* (1981). 1.

Radcliffe, Dana. "Scott-Kures on Believing at Will". 57 *Philosophy and Phenomenological Research* (1997). 145.

Rosati, Connie. *Self-Invention and the Good*. Doctoral Thesis, University of Michigan. 1989.

Scott-Karures, Dion. "On Belief and the Captivity of the Will". 54 *Philosophy and Phenomenological Research* (1994). 77.

Steinberg, Leo. *The Sexuality of Christ in Renaissance art and in Modern Oblivion*. 2nd ed., rev. and expanded. Chicago: University of Chicago Press. 1996

Williams, Bernard. "Deciding to Believe" in his *Problems of the Self* Cambridge: Cambridge University Press. 1973. 136.

Winters, Barbara. "Believing at Will". 76 *Journal of Philosophy*. (1979). 243.

Really Bad People

by Jeff Roberts (Law III)

With many hiccups, efforts to create international criminal courts are lurching forward. The underlying reason for creating these courts, it seems, is to ensure that people who do really bad things cannot escape the law. There have been successes. United Nations tribunals have collared and tried some truly unpleasant people in response to the Balkan conflicts. And the International Criminal Court is up and running, though it has yet to try its first case.

On the other hand, most international trials have been the subject of interminable delays and revolving prosecutors. The process of creating and managing these courts has been battered by political interests making disingenuous use of human rights arguments. And Western countries (Canada included) are far more eager to offer up lawyers to the world than they are to supply soldiers. If human rights advocates wish to condemn and prevent atrocities, they must first recognize that political stability must be implemented before more fine-grained attempts at justice can be attempted.

But there is another, more foundational problem that attends the current efforts to create international courts. Namely, it is that the focus of these courts remains clearly on the state. While it was state leaders who committed many of the large-scale atrocities of the 20th century, this is less likely to be the case

in the present century. In Western countries, the state is being eclipsed by trans-national business interests. And, in much of the rest of the world, religious leaders continue to have more sway than national ones. Osama bin Laden provides an excellent example. It is far from clear what our new international courts would do with him. Bin Laden neither controls nor belongs to a state, and it is difficult to understand under what jurisdiction he could be held accountable.

Perhaps it is time for international courts to refocus their sights on non-state actors. Religious institutions have long been considered to be largely autonomous from the laws of the state. It is time we revisit this notion. These institutions are as ferociously political as many nation states, and often they are more wealthy and vicious. Their leaders should be subject to the same justice as national leaders. For example, justice demands that the head of a trillion-dollar pedophile ring be thrown into a docket. Likewise, robed maniacs who exhort their people to pray for the death of entire nations should face international criminal justice.

Corporate criminals likewise seem beyond the scope of those who are creating international courts. The globe is crawling with executive officers who display willful blindness (or often complicity) towards egregious environmental and human rights abuses. Should they not be indicted?

It is far from clear whether international courts will or can ever succeed. What does seem clear is that their success will in part be determined by who they decide to identify as really bad people. The scope of these courts should encompass not just state actors, but religious and corporate ones as well. ■

Chico Starts Strong

by Ken McKay (Law III)

Chico Resch kicked off their season Tuesday by putting the beats to Trouser in a solid 6-0 thrashing. The off-season recruiting produced a group of talented young rookies to enhance a team with a score of returning veterans. The team got to a slow start, going scoreless until the minute mark when Dinesh Melwani scored on a beautiful feed from rookie Sam Atk. Several minutes later Ian Osseline feathered a pass to Adam Zanna in the high slot who rifled a slap-shot into the top corner. Rookie Matt Singerman added to Chico's lead with 0.4 seconds left in the first period with a slapshot the goalie never saw. Ken McKay opened the scoring in the second period, putting the puck behind the goalie while being marked by the opposing defence. Rookie Ian showed he has hands of a surgeon to go with his physical play, relieving the opposing defence of their jock-straps while scoring Chico's fifth of the night. Returning veteran John Goudy added the final goal on a blast to the top corner – showing the team that a little of strengthening his wrist in Scotland had done wonders for his shot. The other forwards (Dennis G., Jason Crelinsten and rookie Steve Lowe) put in fine performances at both ends of the ice. However Jason did not recall much of this as he was busy tending his wrist prior to the game. The defence (Matt, Adam, and Captain Greg Rick) showed little weakness despite missing David "The Hammer" Lametti – who missed the game due to an illness. Rookie tender Paul Cabana was fantastic in not stopping everything the opposing team threw at him and putting on a fine display of "you see the hole, now you don't" in his shutout. The game had plenty of rough play however the Chico players kept their heads despite facing a very chippy team. Chico was assessed only two penalties (Ma-

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d Sandy Kherha) – a particularly low number given Chico's history and reputation for not taking any guff. The team is 1-0 this year and very excited about the season. The next game is October 3rd at 8:30 p.m. – it is a Friday night so come out and support the team and join them for an after-game party at yet to be announced watering hole. ■

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 VANCOUVER BAR ASSOCIATION GUIDELINES - SUMMER 2004 -
 MINISTÈRE DE LA JUSTICE DU QUÉBEC RECRUTEMENT
 AREA OF PRACTICE DINNER #2
 OTTAWA 2004 SUMMER RECRUITMENT
 *SOME POSITIONS ARE FOR FIRST-YEAR STUDENTS***
 HUMAN RIGHTS/SUSTAINABLE DEVELOPMENT INFO. SESSION
 SEPTEMBRE/OCTOBRE EN BREF!

POSTINGS (ALUMNI, HUMAN RIGHTS, ALTERNATIVE, LL.M., ACADEMIC, VOLUNTEER, PART-TIME)

The JuristCanada website list several academic positions currently posted in Canadian universities:
<http://jurist.law.utoronto.ca/>

COORDINATOR, COHRE AFRICA PROGRAMME: The Centre on Housing Rights and Evictions (COHRE) is an international human rights non-governmental organisation (NGO), with a particular focus on the human right to adequate housing and preventing forced evictions. COHRE has regional

programmes in Asia & the Pacific, the Americas and Africa, along with thematic programmes on housing and property restitution; women and housing rights; the right to adequate water; and litigation. COHRE was established in 1994, and is now recognised as an important voice in the global human rights movement.

COHRE requires a Coordinator to manage its Africa Programme, to be based in Accra, Ghana.

The COHRE Africa Programme Coordinator will:

- Establish and manage the COHRE Africa Programme, to be based in Accra, Ghana
- Develop and implement the COHRE Africa Programme Plan of Action.

Related tasks will include:

- Acting as the Africa focal point within COHRE
- Carrying out research and fact-finding missions
- Writing, editing and publication
- Running training courses on the right to adequate housing and related ESC rights
- Litigation activities
- Legal advocacy and lobbying
- Conceive and develop new projects
- Build regional housing rights networks
- Represent COHRE at United Nations and African Union meetings
- Other COHRE activities.

Required Skills/Background

- Legal and/or human rights background, preferably with a law or other advanced degree
- A minimum of four years working in the legal or human rights field in Africa, preferably in the area of economic, social and cultural rights
- Project management and/or co-ordination experience
- Experience with housing, displacement, land rights and/or eviction issues
- Fluency in English
- Self-motivated, well-organised, excellent writing

and communication skills

- Ability to meet deadlines
- Willingness to travel often to countries as needed, occasionally for extended periods of time, sometimes on short notice
- Flexibility and ability to work as part of a team
- Hard-working and deeply committed to housing rights and human rights issues

The following will be highly desirable:

- Existing organisational contacts within the region
- Competency in an African language, French and/or Arabic
- Training and experience in the civil legal systems of Africa.

Interested candidates should send a complete curriculum vitae, together with the names and contact details of three references to:

cohreafrica@cohre.org. The documents should be sent as MSWord email attachments, or can be posted to the address given below.

The position involves an excellent working atmosphere and a competitive remuneration package. Only short-listed candidates will be contacted for possible interviews.

Applications should reach COHRE by 20 October 2003. Work will commence as soon as possible.

For further information on COHRE and the COHRE Africa Programme, see

www.cohre.org or write to
cohreafrica@cohre.org.
 COHRE International Secretariat
 83 Rue de Montbrillant
 1202 Geneva
 Switzerland

*** Barreau Pénal International devant la Cour pénale internationale (BPI)

Titre: Adjoint(e) à la présidence du Barreau Pénal International - POSTE À TEMPS PLEIN

Description du poste : La personne occupant ce poste aura les responsabilités suivantes :

- Coordination et participation aux réunions des Etats parties au Statut de la CPI aux Nations Unies (NU)
- Préparation des documents de travail ►

- Agent de liaison avec les Nations Unies (Envoi des noms pour les passes et relations avec la Coalition pour la CPI)
- Coordination des personnes participant à ces rencontres à titre de représentant du BPI
- Négociations et lobbying aux Nations Unies
- Coordination des activités du conseil, du comité exécutif et des coordonnateurs nationaux et régionaux du BPI, particulièrement ceux de l'Amérique latine
- Organisation des réunions du Conseil et du Comité exécutif
- Préparation des documents de travail et de l'agenda
- Agent de liaison avec les différents membres et observateurs
- Rédaction du Bulletin d'information du BPI
- Rédaction d'articles
- Coordination des collaborateurs
- Organisation et gestion de la campagne d'adhésion
- Envoyer les lettres d'adhésion
- Envoyer les certificats de membre
- Suivi des inscriptions
- Mise à jour de la liste de membres
- Répondre aux demandes d'information
- Gestion quotidienne des affaires de l'organisme (Travail de bureau)
- Gestion de l'adresse email du BPI
- Répondre aux demandes d'information par téléphone et email
- Classement
- Travail de coordination avec le webmestre pour l'amélioration du site web
- Travail de sensibilisation et de promotion du BPI
- Élaboration de stratégies
- Dissémination et distribution d'information
- Participation à des conférences et événements

- publics
- Organisation de conférences et séminaires
 - Travail de secrétariat
 - Rédaction de lettres etc.
 - Soutien à la présidence
 - Correspondance
 - Agenda
 - Organisation des déplacements
 - Comptabilité
 - Suivi des remboursements de dépenses de la présidence et de son adjointe
 - Gestion des fonds reçus dans le cadre de la campagne d'adhésion - liaison avec les Pays-Bas
 - Recherche juridique
 - Aide à la préparation des discours de la présidente
 - Recherche de fonds
 - Compléter les demandes de subvention et établir des budgets

Compétences Requises:

- Baccalauréat en droit ou en relations internationales (formation en administration un atout)
- Profil International
- Connaissance du droit pénal international (un atout)
- Parfaitement bilingue anglais/français (espagnol un atout)
- Excellente capacité à gérer le stress
- Excellente capacité de rédaction en français et en anglais

Date limite pour postuler: 1er octobre 2003 - disponible dès maintenant

Durée du contrat :Durée d'un an avec possibilité de prolongation

Salaire: Environ \$32 000 par an (à temps plein)

Comment Postuler: Veuillez faire parvenir votre curriculum vitae et

lettre de présentation à:

Me Guillaume Endo ou Me Lucie Laplante

AIAD-ICDAA

137, rue St-Pierre, Bureau P-206,

Montréal QC

H2Y 3T5

Téléphone: (514) 285-1055

Fax: (514) 289-8590

courriel: admin@aiad-icdaa.org

<http://www.hri.ca/partners/aiad-icdaa/>

[This copy of CPO Newsletter was truncated. You may access the full version at

<http://www.law.mcgill.ca/cpo/careerlink-en.htm>

Reality Bites (FG)

I have decided to drop out of Law School.



Why, you ask? Well, I read my first case yesterday...



written by Lord Denning.



De jure 2003

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